



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 31ST DAY OF OCTOBER 2025

BEFORE

THE HON'BLE MR. JUSTICE R.DEVDAS

WRIT PETITION NO. 102964 OF 2022 (GM-CPC)

BETWEEN:

SRI. HOLEPPA,
S/O. SANGAPPA KAMANNAVAR @ ARAKERI,
AGE: 36 YEARS, OCC: AGRICULTURE,
R/O. NAVALAGI, TQ: RABAKAVI-BANAHATTI,
DIST: BAGALKOT-587 311.

- PETITIONER

(BY SRI. SHIVARAJ P.MUDHOL, ADVOCATE)

AND:

1. SMT. JAYASHREE,
W/O. BASAPPA @ BASAVRAJ KAMANNAVAR,
AGE: 43 YEARS, OCC: AGRICULTURE
AND HOUSEHOLD WORK, R/O. NAVALAGI,
TQ: RABAKAVI-BANAHATTI,
DIST: BAGALKOT-587311.

2. KUMAR. TIPPANNA,
S/O. BASAPPA @ BASAVARAJ KAMANNAVAR,
AGE: 21 YEARS, OCC: STUDENT,
R/O. NAVALAGI, TQ: RABAKAVI-BANAHATTI,
DIST: BAGALKOT-587311.

MOHANKUMAR
B SHELAR



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KARNATAKA DHARWAD
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3. KUMAR. MALLAPPA,
S/O. BASAPPA @ BASAVARAJ KAMANNAVAR,
AGE: 19 YEARS, OCC: STUDENT,
R/O. NAVALAGI, TQ: RABAKAVI-BANAHATTI,
DIST: BAGALKOT-587311.
4. SRI. HANAMANT,
S/O. GADIGEPPA KAMANNAVAR @ ARAKERI,
AGE: 34 YEARS, OCC: AGRICULTURE,
R/O. NAVALAGI, TQ: RABAKAVI-BANAHATTI,
DIST: BAGALKOT-587311.

- RESPONDENTS

(BY SRI. GIRISH A.YADAWAD,
SRI. D.J.DESHPANDE
AND SRI. ASHOK C.ANGADI,
ADVOCATES FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED 27/06/2022 IN P AND SC NO.01/2020 PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE BAGALKOT TO SIT AT JAMKHANDI VIDE ANNEXURE-A, BY ALLOWING THIS WRIT PETITION IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE R.DEVDAS)

The petitioner is aggrieved of the dismissal of the applications in I.A.NoS.2 and 3 filed in P&SC No.1/2020 seeking revocation of the probate and succession certificate granted by the Court earlier by order dated 24.09.2021.

2. The respondent herein had filed P&SC No.1/2020 seeking probate and succession certificate of the unregistered Will dated 21.04.2008 said to have been left behind by Smt.Paddawwa. Smt.Paddavva is the sister of Gadigeppa and Sangappa. Smt. Paddavva died unmarried. The children of Gadigeppa are respondents herein, and they filed P&SC case contending that Smt.Paddavva has left behind a Will and has bequeathed the property in question in their favour. However, the children of Sangappa, the other brother of Smt.Paddavva contend that Smt.Paddavva never left a Will bequeathing the property in favour of the children of Gadigappa alone, and since the petitioner was not made as party-respondent to P&SC proceedings, the



petitioner earlier filed a miscellaneous first appeal before this court in MFA No.100825/2022, being aggrieved of the orders passed in P&SC proceedings. However, liberty was sought from this court to withdraw the appeal and seek revocation of the probate granted by the court. Accordingly, MFA No.100825/2022 was disposed of on 20.04.2022 granting liberty to the petitioner to seek revocation of the orders passed by the P&SC court. Accordingly, I.A.Nos.2 and 3 were filed by the petitioner for revocation of the probate and succession certificate. By the impugned order dated 27.06.2022, the applications were rejected, and consequently, this writ petition is filed.

3. Learned counsel for the respondents submits that earlier, the petitioner had filed O.S.No.231/2021 seeking partition and separate possession of the suit schedule properties, which is nothing but the subject matter of the probate and succession certificate issued by the court. O.S.No.233/2021 was also filed by the petitioner seeking declaration and permanent injunction. However,



O.S.No.231/2021 was dismissed for non-prosecution. Further, the petitioner has filed O.S.No.***38/2025** ~~294/2023 seeking the very same relief, i.e., partition and separate possession, and the respondents also filed O.S.No.388/2022~~ seeking partition and separate possession. Learned counsel would therefore, submit that since a suit has been filed by both the parties, the petitioners may urge for proof of the Will in the pending suits. In that view of the matter, learned counsel submits that the writ petition may be disposed of granting liberty to the parties to raise such contention regarding the Will left behind by Smt.Paddavva, and the respondents may be permitted to prove the Will in the pending suits.

4. Learned counsel for the petitioner however submits that since the probate/succession certificate has been issued without notice to the petitioners, liberty may be reserved to the petitioners to urge for proof of the Will in the pending suits.

*Corrected vide court order dated
18.12.2025.

Sd/-
(RDJ)



5. Accordingly, the writ petition stands disposed of leaving it up open for the parties to question and prove the Will said to have been left behind by Smt.Paddavva.

6. Needless to observe that the court considering the two suits in O.S.No.***233/2021** and O.S.No.***38/2025** shall frame appropriate issues regarding the Will dated 21.04.2008 said to have been left behind by Smt.Paddavva and the parties should be permitted to raise their contention regarding genuineness of the Will said to have been left behind by Smt.Paddavva.

7. The order passed in P&SC No.1/2020 shall be subject to final outcome of the two suits.

8. Ordered accordingly.

Sd/-
(R.DEVDAS)
JUDGE

BVV,MBS
Ct:vh
List No.: 1 SI No.: 28

*Corrected vide court order dated
18.12.2025.

Sd/-
(RDJ)